



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

OFFICE OF COUNCILMEMBER
ROGER BERLINER

July 14, 2010

The Honorable Barbara Mikulski
United States Senate
Washington, DC 20510

The Honorable Benjamin Cardin
United States Senate
Washington, DC 20510

Dear Senators:

I am writing to ask your assistance to save an initiative that I believe has the potential to fundamentally change the home energy efficiency dynamic in this country. Montgomery County is poised to launch Maryland's first PACE (Property Assessed Clean Energy) program to help homeowners retrofit their homes with energy efficiency and renewable energy measures. This breakthrough program will simultaneously help our homeowners reduce their utility bills, increase their cash flow, reduce their carbon emissions, and put Marylanders back to work.

Recent actions, however, by the Federal Housing Finance Agency (FHFA) threaten not only the extraordinary promise of these programs, but also the autonomy, integrity, and prerogative of local governments to employ property tax assessments. In a statement issued on July 6th, FHFA declared that "[t]he size and duration of PACE loans exceed typical local tax programs and do not have the traditional community benefits associated with taxing initiatives." I strongly question the interpretation of benefits by the Agency and their actions, which will kill one of the most important conceptual breakthroughs in energy policy in decades.

The funds that will be provided by Montgomery County to our residents for this purpose will be recovered through property tax assessments. This is the same manner that Maryland counties have used to make water and sewer improvements for many years. These more traditional improvements have brought benefits, which cannot be questioned, including services that lower the impact of residents on the environment and ultimately in the long term improve home value.

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These programs have stood the test of time but provide a more narrow benefit to our community, our economy and our environment than the PACE programs that these mortgage regulators currently stand against. I believe and I think you would agree that a program that overcomes the first costs of energy-efficiency and enables everyday bill paying, tax paying residents to install retrofits provides a wider range of benefits that far outstrip the benefits of these more traditional assessments. By redirecting hard earned dollars to fund retrofits and simultaneously improve the comfort and long-term value of homes, we reduce unnecessary utility expenditures instead of wasting energy. Needless to say, each retrofit creates jobs exactly where they are needed -- in industries that have been hard hit by the economic contraction. This move to deny counties the right to assess homeowners for these improvements represents a fundamental assault on what I believe are local prerogatives to protect the well being, health and environment of our communities.

Vice President Biden's Report from the White House Middle Class Task Force endorsed PACE financing as a means to create jobs, reduce energy bills and cut greenhouse gas emissions. The White House Policy Framework for PACE programs was released concurrently to guide the development of programs that protect homeowners and lenders. Montgomery County's Program, which is now in great jeopardy, was designed explicitly with these protections in mind, as well as with the key principles developed by the Department of Energy to protect residents and lenders. These protections include:

- Limit of the value of the assessment to 5% of property value with a total cap of any total assessment of \$25,000
- Requirement that the total value of the assessment be equal or less than the difference between the homeowner's mortgage obligations and their home's value.
- Applicants must not be in bankruptcy and must be current on both their mortgage and property tax bill.
- Financing is allowed for only cost-effective improvements, where the sum of projected energy cost savings from the improvements are equal to or greater than the sum of the principal and interest payments over the life of the loan.
- Use of only certified auditors and contractors who are highly trained, agree to program guidelines, and are monitored under stringent quality assurance procedures established by the U.S. Environmental Protection Agency.

All of these features were designed to ensure a seamless program targeted at middle class families who are paying their bills, and continue to do so, even more effectively after receiving improvements. We seek only to relieve budgets, create jobs, and help Americans stay in comfortable energy efficient homes.

The Agency states that *Efforts are just underway to develop underwriting and consumer protection standards as well as energy retrofit standards that are critical for homeowners and lenders to understand the risks and rewards of any energy retrofit lending program.* This situation with FHFA cannot stand unchallenged. PACE is based on relatively small loans, with clear returns on investment, that effectively balance the rights of local governments to invest in their community and the needs of our residents with that of the lending community. Now these lenders oppose us and like minded communities across the Country.

While I firmly believe that the risk from the first lien position of these assessments is a non-issue – the experience to date suggests that homes with PACE loans have a significantly lower default rate than non-PACE homes -- if further protections and guarantees are necessary, then legislation should be crafted that addresses legitimate concerns without imperiling this groundbreaking program. For example, I understand that the Administration believes that the threat of defaults is so low that it is prepared to guarantee loans made consistent with federal guidelines. I would be pleased to work with you and your staffs on a range of mitigation measures. The Senate may still take up energy legislation and such legislation, particularly if it does not include a cap & trade mechanism, should seize the opportunity that PACE programs offer to dramatically increase energy efficiency in our homes and put Americans back to work.

Thank you for your assistance to Montgomery County on this high priority issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Roger Berliner". The signature is fluid and cursive, with the first name "Roger" and last name "Berliner" clearly distinguishable.

Roger Berliner
Councilmember, District 1

CC: Senate Majority Leader Reid
Senate Energy Committee Chairman Bingaman
Senate Banking Committee Chairman Dodd